

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

FREEDOM MORTGAGE)	
CORPORATION,)	
)	
Plaintiff,)	
)	C.A. No. N22L-10-033 FWW
v.)	
)	
VERLYN RAYFIELD,)	
)	
Defendant.)	

Submitted: February 16, 2023

Decided: February 17, 2023

Upon Defendant Verlyn Rayfield's Motion to Dismiss Plaintiff's Complaint,
DENIED.

ORDER

Janet Z. Charlton, Esquire, Chase N. Miller, Esquire, MCCABE, WEISBERG & CONWAY, LLC, 1407 Foulk Road, Suite 204, Wilmington, DE, 19803, Attorneys for Plaintiff Freedom Mortgage Corporation.

Verlyn Rayfield, 821 W. 32nd Street, Wilmington, DE, 19802, Defendant.

WHARTON, J.

This 17th day of February 2023, upon consideration of the Defendant's Motion to Dismiss Plaintiff's Complaint,¹ the Plaintiff's Response to Defendant's Motion to Dismiss,² and the record in this case, it appears to the Court that:

1. Freedom Mortgage Corporation ("Freedom") brought this mortgage foreclosure action on October 19, 2022.³ Freedom alleges that George Rayfield and Verlyn Rayfield ("Rayfield" or the "Defendant") executed and delivered a mortgage on the property known as 821 W. 32nd Street, Wilmington, Delaware.⁴ Freedom further alleges that it is the assignee of the mortgage.⁵ George Rayfield died on June 9, 2021, leaving the Defendant the surviving tenant by the entirety.⁶ Freedom alleges that the Defendant has failed to pay installments on the mortgage and now owes Freedom \$199,371.96 in principal together with interest and assorted other charges.⁷

2. A review of the record provides useful context. Rayfield filed an Answer and Counterclaim on October 27, 2022.⁸ In that filing, she added a parenthetical "(Trust)" to her name in the caption, asserting that she is a "*cestui que vie* trust"⁹ and signed it "verlyn-teresa: rayfield-bey, 'proper name' Authorized

¹ Defs.' Mot. to Dismiss, D.I. 18.

² Pl.'s Resp. to Def.'s Mot. to Dismiss, D.I. 29.

³ Compl., D.I. 1.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Def.' Ans., D.I. 3.

⁹ *Id.*

Representative to *ens legis* of Court: ‘VERLYN RAYFIELD’ All Natural/Constitutional Rights ‘explicitly reserved’ c/o 821 W. 32nd St. Wilmington, via Delaware Republic, Zip Exempt [19802] via United States Republic, Continental North America Non-Domestic, Non-Resident, via united [sic] States Mail without the United States corp. ®.”¹⁰ The Writ of Scire Facias Sur Mortgage issued by the Court was returned by the Sheriff on November 9, 2022 with the notation that the writ was ‘served upon and left personally upon VERRLYN RAYFIELD at 821 W. 32ND STREET WILMINGTON, DE 19802, on 11/7/22 at 2:19 PM.”¹¹ On November 23, 2022, Rayfield filed a document entitled “NOTICE OF NON-RESPONSE AND OPPORTUNITY TO CURE.”¹² Mediation on January 4, 2023 was unsuccessful because, “Defendant does not want to pursue loss mitigation.”¹³ Next, Rayfield filed a “NOTICE OF APPEARANCE: NEXT FRIEND(S).”¹⁴ That document purports to notice that the appearance of “the authorized agent for the Defendant, a trust beneficiary, shall be accompanied by” three named “Next Friends” – veronica-lynn, Sadique-sayed, and Troy-john, all designated as “a natural person domiciled in one of the several states.”¹⁵ An “Attorney Affidavit of

¹⁰ *Id.* All subsequent filings were executed in this same fashion.

¹¹ D.I. 8.

¹² D.I. 9.

¹³ Final Mediation Record, D.I. 11.

¹⁴ D.I. 12.

¹⁵ *Id.*

Affirmation” followed, requesting that Freedom’s attorneys execute an affidavit attesting to certain facts.¹⁶

3. The Motion to Dismiss, accompanied by an Affidavit in Support of Motion to Dismiss setting out the grounds for dismissal, was filed on January 16, 2023.¹⁷ The Affidavit does not speak directly to any cognizable grounds for dismissal under Superior Court Civil Rule 12. Instead, it recites alleged irregularities occurring at the mediation.¹⁸ It also alleges that Freedom made certain admissions to the mediator,¹⁹ which Freedom denies.²⁰ Nonetheless, the Court will treat the motion as a motion to dismiss for failure to state a claim under Superior Court Civil Rule 12(b)(6).²¹

4. A motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6) will not be granted if the “plaintiff may recover under any reasonably conceivable set of circumstances susceptible of proof under the complaint.”²² The Court's review

¹⁶ D.I. 17.

¹⁷ Def.’s Mot. to Dismiss, D.I. 18.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Pl.’s Resp. to Def.’s Mot. to Dismiss, D.I. 29

²¹ To the extent Rayfield would like the Affidavit in Support of the Motion (D.I. 18) to be read to allege a lack of jurisdiction over the person (Rule 12(b)(2)), insufficiency of process (Rule 12(b)(3)), insufficiency of service of process (Rule 12(b)(4)), or failure to join a party under Rule 19 Rule 12(b)(7), such allegations are patently without merit and are rejected.

²² *Browne v. Robb*, 583 A.2d 949, 950 (Del. 1990).

is limited to the well-pled allegations in the complaint.²³ In ruling on a 12(b)(6) motion, the Court “must draw all reasonable factual inferences in favor of the party opposing the motion.”²⁴ Dismissal is warranted “only if it appears with reasonable certainty that the plaintiff could not prove any set of facts that would entitle him to relief.”²⁵

5. Despite Rayfield’s attempt to litigate by legerdemain, it is obvious that the motion must be **DENIED**.²⁶ The Complaint alleges a garden variety mortgage foreclosure action. Attached to the Complaint are copies of the mortgage on 821 W. 32nd Street, signed by Rayfield, and the assignment of the mortgage to Freedom.²⁷ The Complaint alleges that Rayfield failed to make payments according to the terms of the mortgage and owes Freedom the principal balance of \$199,371.96 together with interest and costs.²⁸ When drawing all reasonable inferences in favor of Freedom, there is no reason to believe that Freedom will be unable to prove a set of facts that will entitle it to relief.

²³ *Doe v. Cahill*, 884 A.2d 451, 458 (Del. 2005).

²⁴ *Id.*

²⁵ *Id.*

²⁶ Were the Court to recognize “verlyn-theresa: rayfield-bey” as a representative of Defendant Verlyn Rayfield, and not as the Defendant herself, it would not be able entertain the motion at all, inasmuch as non-attorneys are prohibited from representing individual litigants in Delaware courts.

²⁷ Compl., Ex. E (mortgage), Ex. F (assignment), D.I. 1

²⁸ *Id.*

THEREFORE, the Defendant Verlyn Rayfield's Motion to Dismiss is
DENIED.

IT IS SO ORDERED.

/s/ Ferris W. Wharton
Ferris W. Wharton, J.